

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

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LOCAL 147, LABORERS INTERNATIONAL UNION  
OF NORTH AMERICA (NORTHEAST REMSCO  
CONSTRUCTION, INC.)

Case No. 02-CB-231600

**REPLY TO OPPOSITION**

and

RICHARD BACQUIE, *ProSe*

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**REPLY TO OPPOSITION BEFORE THE EXECUTIVE BOARD  
of THE NATIONAL LABOR RELATIONS BOARD**

Richard M. Bacquie acting Prose respectfully submits Reply to opposition filed by counsel  
for respondent Local Union 147, Dated August 14<sup>th</sup>, 2020.

**I. ISSUES PRESENTED**

- A. Charging party Richard Bacquie right and/or denial of counsel to which he had a right to and was not given instructions as to that right nor was charging party given the right to self-representation as ProSe in this matter.
- B. Charging party right to access and provide expert witness which would have aided the Law Judge to make a clear decision based on the weight of the evidence presented with expert testimony.
- C. Judicial Prejudice in making findings as an expert and misrepresentation and/or disregarding areas of the record that are clear to the facts of the case presented before the court.

## **ARGUMENTS**

### **I. RIGHT TO COUNSEL FOR CHARGING PARTY AND RIGHT TO SELF REPRESENTATION BEFORE THE COURT**

#### **II.**

1. Counsel here makes claims in avoidance of the fact that Richard Bacquie none the less was denied the right to counsel and at no time was afforded the option to obtain counsel.
2. As this constitutional right was not conveyed by the court or by counsel for General counsel in this matter.
3. It is also clear by counsel in opposition and within the record Richard Bacquie was never afforded the right to review evidence, and cross examine the witnesses called before the court.
4. As the record is clear regarding the issue raised and clear, opposition case is frivolous at best and without merit.
5. Charging party by law deserves a new trial considering the aforementioned violations.
  
6. Tr. Pg. 273 line 11 – 15 responded counsel accuses Richard Bacquie of an allegation unsupported and without representation of counsel Richard Bacquie answers.
7. Had Richard Bacquie had counsel in his best interest this allegations and others like it through out the record would not have accrued.
8. Tr. Pg. 286 -287 Richard Bacquie is asked a series of questions regarding a pending case, and without representation of counsel Richard Bacquie tried his best to handle the matter as best he could, which would have been starkly different had counsel been afforded.

9. Tr. Pg. 350 Judge Esposito states that counsel for general counsel is not counsel for charging party Richard Bacquie.

“JUDGE ESPOSITO: I don’t need – I don’t need briefs. But I would just point out, Mr. Shimpi, that, you know you’ve – I know you’re not – I know your not counsel for Charging Party’s attorney.”

10. In Sum Charging Party Richard Bacquie had the constitutional right to have counsel before the court and was never made aware of this right, was prejudiced which is clear through out the record and denied proper counsel. Charging Party was never given the opportunity to cross examine the witnesses presented to the court.
11. Charging Party was never given instruction as to the right to self-representation before the court which is indeed prejudicial.
12. As a result, he could not have had fair and impartial representation, to counsel him correctly and fairly and to protect his best interest. Charging Party was prejudiced by not being afford the right to have counsel at his best interest and for this reason, Charging Party request a new trail be ordered.

### **III. CHARGING PARTY RIGHT TO ACCESS AND PROVIDE EXPERT WITNESS**

1. Opposition here is stating a weak argument as the court cannot insert itself as an expert in the mental state of a witness and make assumptions as what a witness was thinking.
2. Or position itself as an expert and the matter of voice recognition. The court clearly within the record is positioning itself as a self-proclaimed witness in this matter, making determinations as such.
3. The court also as points was not clear as to voice determinations, then wanted to determine the context of the statements to be less than the audio evidence and even oppositions witness testified to.

4. The court could not and should not have made these factual determinations without an expert's testimony presented by either party in this matter.
5. Charging parties arguments are with merit and this board needs to weight the facts within the record as they stand.
6. The court has indeed overstepped its boundary and charging party was not allowed nor aware that he could have has the opportunity to present experts to air the court in making a proper determination either for or against charging parties claims.
7. If charging party was afforded the right to counsel Richard Bacquie would have been aware and made a good faith effort to hire and present witness before the court.
8. Charging party's claims are with merit and are not frivolous Richard Bacquie should be afford a new trail so that evidence and testimony are present properly and not determined by feeling and assumptions as they are now.

#### **IV. JUDICIAL PREJUDICE OF CHARGING PARTY**

1. Opposition clearly does not argue the fact that counsel made the statement within the record, opposition also argues that the court made an extensive review of the facts within the record and case presented.
2. And that the court could not have errored, however the court missed the most damaging statement stated before the court and lays clear in the record that opposition does not and can not argue is the following which is review able in the transcripts Tr. Pg 428-429  
  
" MR. STRUM: -- and pull, if you say a magic word that slips out of your mouth, you're guilty and you have to commit yourself to a -- you know, you're going to be, you know --"  
  
" MR. SHIMPI: Objection. "  
  
" MR. STURM: --required to post notices from here to eternity."

3. Respondent counsel was clearly stating the respondent had in fact made the threat as charged, he was not speaking from speculation but fact he stated "If you say a magic word that slips out of your mouth" this is not a speculative statement by counsel but an omission.
4. This is clear if nothing else and the board can not overlook this statement made by counsel. And opposition does not argue its validity.
5. Your honor completely overlooked the fact that all who testified were family and long-time relationship as friends and have a vest interest to obtain a favorable outcome.
6. Based on the aforementioned, relief in the form of a new trial is in order as Charging Party suffered prejudice due to the Courts decision and order dated March 25<sup>th</sup>, 2020

**WHEREFORE**, Charging Party seeks relief in the for of a new trial and Charging party experienced extreme prejudice and the proceeding held at Region 2 of the National Labor Relations Board in the State of New York. Charging Party prays relief will be granted in the best interest of justice.

SIGNED:

DATE: August 14, 2020

s/ Richard Bacquie  
RICHARD M. BACQUIE ProSe  
165-17 144th AVE  
JAMAICA, NEW YORK 11434

## **CERTIFICATION OF SERVICE**

I Certify that the within motion for Extension of Time, The Following parties were served this day by depositing it via email attachment, and addressed to the following listed parties:

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FILED ELECTRONICALLY 7/14/2020

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SIGNED:

DATE: July 20<sup>th</sup>, 2020

s/Richard M. Bacquie

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